

REMARKS

Favorable reconsideration of this application, in light of the preceding amendments and following remarks, is respectfully requested.

Claims 1-4, 7-10, 12-19, 22-25, and 35-61 are pending in this application. Claims 1, 18, 23, 36, 38, 42, 50, 56, and 59 are amended and claims 5 and 21 have been cancelled. Claims 1, 18, 38, 50, and 56 are the independent claims.

Obviousness-type double patenting rejection

Claims 1-5, 7- 10, 12-19, 21-25, and 35-61 have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 5, 6, 41, and 42 of copending U.S. Patent Application No. 10/787,159. The Applicant notes that this rejection is a provisional rejection. The scope of the claims in either application can change over the course of prosecution and render this rejection moot. In fact, the independent claims in the present application are amended herein. The Applicant defers responding to the provisional rejections until a later time.

Claim Rejections – 35 U.S.C. §103(a)

Claims 1-4, 8, 10, 13, 16, 18, 19, 24, 25, 36-41, 46-54, and 56-60 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Watanabe (U.S. Patent Application Publication 2004/0156294) in view of Senshu (U.S. patent Application Publication 2002/0060968), and further in view of Nagai et al. (U.S. Patent 6,938,162). This rejection is respectfully traversed.

Claim 1 recites, among other things, a recording medium that has a lead-in area and a burst cutting area (BCA) other than the lead-in area. The burst cutting area includes data units, where disc information is included in each of the data units. Thus, the BCA includes more than one disc information. In contrast, as correctly noted by the Office (Office Action issued on July 8, 2008, at page 7, first paragraph), the cited references Watanabe, in view of Senshu and Nagai, fail to teach or suggest the BCA including data units, where disc information is included in each of the data units.

With this regard, the Ueda et al. publication (U.S. Patent Application Publication 2001/0007545), which is relied on by the Office to overcome the deficiency in failing to teach the feature, is similar in nature. Ueda et al. publication discusses providing manufacturer initialization medium identifier identical with that of the BCA to the lead-in area. (See paragraph [0058] of Ueda.) The manufacturer initialization medium identifier is different from the disc information recited in claim 1. Furthermore, even if one were to assume that the manufacturer initialization medium identifier would correspond to the disc information of the presently claimed invention, the manufacturer initialization medium identifier would not be stored in the manner recited in claim 1. The Ueda et al. publication discloses that identical copies of the manufacturer initialization medium identifier are stored in the BCA and the lead-in area, but not repeatedly in the BCA. Since, neither of the cited references, taken alone or in combination, teach all the limitations of the claimed invention, Applicants assert that a *prima facie* case of obviousness has not been established, and that claim 1 is allowable.

Amended independent claims 18, 38, 50, and 56 contain similar claim language as that cited above with respect to claim 1 and are allowable for at least the reasons indicated above with respect to claim 1. Claims 2-4, 8, 10, 13, 16, 19, 24, 25, 36-37, 39-41, 46-49, 51-54, and

57-60 depend, either directly or ultimately, from claims 1, 18, 38, 50, and 56, rendering them also allowable for at least the same reasons.

Claims 5, 21, and 42 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Watanabe in view of Senshu and Nagai et al., and further in view of Ueda et al. (U.S. Patent Application Publication 2001/0007545). Claim 7 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Watanabe in view of Senshu and Nagai et al., and further in view of Dieleman et al. (U.S. Patent 5,341, 356). Claims 9, 12, 35, and 45 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Watanabe in view of Senshu and Nagai et al., and further in view of Applicant's Admitted Prior Art. Claims 14, 23, 44, 55, and 61 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Watanabe in view of Senshu and Nagai et al., and further in view of Haneji (U.S. Patent 5,124,962). Claims 15, 17, 22, and 43 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Watanabe in view of Senshu and Nagai et al., and further in view of Vining et al. (U.S. Patent 6,377,526).

These rejections are predicated on the above characterization of the Watanabe and Senshu Patent Publications and Nagai patent, and are respectfully traversed, for the reasons pointed out above. Accordingly, Applicants respectfully submit that the rejections of claims 7, 9, 12, 14, 15, 17, 22, 23, 35, 42, 43, 44, 45, 55, and 61 lack foundation and should be withdrawn.

<Remainder of Page Intentionally Left Blank>

CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of claims 1-4, 7-10, 12-19, 22-25, and 35-61 in connection with the present application is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge any underpayment or non-payment of any fees required under 37 C.F.R. §§ 1.16 or 1.17, or credit any overpayment of such fees, to Deposit Account No. 08-0750, including, in particular, extension of time fees.

Respectfully submitted,

HARNESS, DICKY & PIERCE, P.L.C.

By: 

Terry L. Clark, Reg. No. 32,644
P.O. Box 8910
Reston, VA 20195
(703) 668-8000

TLC/PXL:eab